Supervisors of Registration to the Board of Returning Officers their majorities ranged from 3,459 to 6,405 votes actually returned to them by the returning officers. But by their canvass and returns and their certificates they certified a majority in favor of these men who have cast this vote, ranging from 3,427 to 4,800.

There you have the whole affair and condition of the election in Louisiana at once presented before you. A large popular majority is returned one way, and that popular majority is reversed by the action of this board by its manipulations of the returns which came into its hands. How was it done? We say there was actual fraud committed by them, as follows: In the first place, they did not undertake to canvass and compile the statements of evidence made by the Commissioners of Election. They threw them on one side and took the statement of votes made by the Supervisors of Registration, and considered them, and them alone; that is, as far as it suited their purposes, for they did not follow that rule all the time, and under the operation of that rule they threw out the votes of Grant Parish entirely. These statements of the votes made by the Commissioners of Election were before them, brought by the U. S. Supervisor of Election for that parish. But the supervisor of registration had not made a return. That is all there was. There was no statement of violence, intimidation, or fraud. There was nothing to impeach any one of those polls. There was no question before them that the original statements had been made by the Commissioners of Election, and yet this board threw out that entire parish—disfranchised the entire parish by the omnipotent power which they claimed over the returns of the popular votes as cast. Before I conclude I desire to say that we impeach these returns for actual fraud—for want of authority. We claim that to accomplish their purposes these men rejected 69 polls, embracing 22 parishes in whole or in part; that is, that the people of 69 voting precincts in the State were disfranchised by the returns made by this Returning Board.

Senator Thurman—How many of those 69 returns were accompanied by protests?

Senator McDonald—I think not one in the manner and form prescribed by statute. Now there is one other consideration—can this Commission look into these questions? Where is the evidence of it? We say it has been taken—that the evidence in support of this charge of fraud and illegality will be found in the investigation made first by the Committee on Privileges and Elections appointed to do that work under the resolution of the Senate in December last. It will also be found in the evidence gathered by the House committee appointed to investigate the recent election in Louisiana, and the action of the Returning Board of the State in reference thereto. We say, then, that these steps have already been taken. Can you look at them? Have you a right to consider them? I say that Congress created a judicial tribunal and not a clerical board—a judicial tribunal possessing parliamentary powers. As a Judicial Commission, it is bound to accept evidence as to whether fraudulent certificates have been given to electors, or whether any of them have not been duly appointed.

MR. JENKS SPEAKS.

A PLEA FOR ADMITTING EVIDENCE.

Representative Jenks next addressed the Commission in behalf of the Democrats and the objectors to the Hayes certificates. His remarks started off with a definition of what was implied in the phrase "counting the votes." He said that the implication is both determination of the votes to be counted and the enumeration of them after their determination. He said further:

If the act of Congress says that the Executive's certificate shall be the only evidence received in determining what votes shall be counted, then the question of determining the legality of that goes with it, because here are two legislative bodies of a great nation. They are required to attest by their journals a fact which is to go down through all history as a truth over their own signatures, and no power on earth can say that you shall put upon those journals that which you and every one else knows to be false. So that there can be no such thing as binding the eyes. If Congress had passed the act that the members of the Senate and House of Representatives, with bandages over their eyes, under the superintendence of the President of the Senate bandaged in a like mode should count the votes, you would say that the absurdity should never be tolerated. The same fact exists here. Truth is the moral sunlight of the world, and if you dare to shut out the truth from the physical eye, you do so from the moral eye, but you cannot from one more than the other, unless you propose to defy the intelligent judgment of the world.

I wish to call the attention of the Commission to this other point. It has been further assumed that this is a judicial tribunal. I am unable to agree in that view. It is legislative, essentially; nothing more, nothing less. This discussion has been somewhat depreciated in its character in that it has been sometimes assumed that this is a contest between parties. It is 45,000,000 people speaking for themselves through their representatives, and saying, "You, for me, count these." It is legislative action and not judicial. Here are two certificates present, each of which represents eight electors; each of which bears the seal of the State; each of which bears the signature of the Governor. Now, shall both be counted; shall either or shall neither? We cannot count both because the Constitution limits the number. Then they must be chosen as the Legislature directs. They are not both genuine is the natural conclusion we come to. It is for you to determine which is the false and which the genuine. Now which is the genuine? If either one conforms to the law of the land in all its essential particulars, that is the genuine. If either fails to conform to the law of the land in those particulars, that is false. Then it is necessary to inquire as to which conforms to the law of the land. If either does, it is to be counted; but if neither does, you cannot count either.

SUGGESTIONS OF FRAUD.

Mr. Jenks passed on to speak of the rival sets of electors in Louisiana. He claimed that the Hayes electors were not chosen in pursuance of the mode prescribed by the Legislature, nor on the day prescribed by act of Congress, and that their certificate of appointment was procured through the fraud of Gov. Kellogg and the Returning Board. He denied that Kellogg's certificate was to be received necessarily. "Suppose," he said, "the certificate of the Governor had been procured by a band of buccaneers sailing up the river to New-Orleans, who captured him and took him aboard and forced him to sign his name to the certificates." He said further that the electors are by law to be chosen by a popular vote, and that the Tilden electors were so chosen. He then reviewed the facts as to the parishes:

In order for the returning board to obtain jurisdiction over returns there must be a protest signed by the Supervisor of Registration or Commissioner of Election, the former during registration, the latter on the day of election. Now, if it be not shown by one of these parties, there is no power to inquire concerning it, and if inquiry be made it is usurpation, and in addition to that we will prove it is a fraud. Then, with this preliminary statement and also this protest, there must be a duplicate in court, in order that there may be a prosecution by the District-Attorney if there be any criminality attached, and also that the people of the parish may know what is charged against them. Now, if there be no duplicate filed in court there is no jurisdiction. I may now state that except in the parishes of Bossier and Concordia there was not a single protest in a single parish in Louisiana.

The law of Louisiana requires that the parish officers shall be citizens of the State, and yet a man named Clover, who was appointed supervisor of registration in East Baton Rouge, was a citizen of Mississippi, and held two offices there until the 1st of January, 1876. Up to Aug. 28 he was a "roper-in" for a snake show—that is, a caller-in of the people passing by. He was then appointed supervisor of East Baton Rouge, because it was known that parish was becoming strongly Democratic. According to the law of the case, we maintain that the testimony taken in Congress is a part of these proceedings. This testimony shows that this supervisor of registration of East Baton Rouge threw out 1,147 votes, making a change of 1,100 in that parish. That was before it came to the Returning Board. This roper for the snake show did this. The Returning Board found it necessary to throw out the returns of this parish, so that the State would be Republican, and consequently 1,100 votes are thrown out.

Mr. Jenks then enumerated the different parishes and gave a list of the number of votes thrown out in each, commenting on each case and saying it was only done in those parishes where there were a large number of Democratic voters. He continued:

I want you to take this fact into consideration, that the acting Governor of the State is a Republican. He appoints the State Supervisor of Registration. He also appoints every supervisor in the State, and the supervisors of registration appoint every Commissioner of Election in the State. The colored supervisors of registration were all Republican—that is, generally Republican—I believe there were one or two exceptions. Now, every single mistake that was made happened to go one way, and we suggest the possibility that there might be a design in it, because it seems to me conclusive evidence of design.

As has been stated, there were no protests at all in certain cases. Now that is evaded by the proposition that parties in interest may have a hearing before the Board, under a provision of the sixth section of the act. Any person interested in the election, by reason of being a candidate for office, etc., is allowed a hearing before the Board.

HAYES ELECTORS DISQUALIFIED.

It is my duty to call your attention to certain persons who are alleged to be disqualified. A. B. Levisse and M. Brewster we allege are disqualified under the Constitution of the United States. We will prove that Levisse was a Commissioner appointed by a certain Court of the United States holding at the time of the election. We will prove that Mr. Brewster was surveyor of the Land District for the State of Louisiana. He swears himself that three or four days after the election he wrote a letter of resignation, asking that it might take effect as of the 4th of November. This was written on the 10th or 11th of November. It was received in Washington on the 18th, and on the 23d he received a reply accepting his resignation as of the 4th. Hence on the day of the election he was disqualified from holding the office, and as we decided so promptly that when the number is limited by the Constitution, it is our duty to decide equally promptly that the disqualification is binding equally upon us. The elector who casts his vote for a disqualified person does the same as though he cast a blank vote.

Then with reference to the other officers. We find that J. A. Birch was a State Senator from Louisiana. By the provisions of the Constitution of the State of Louisiana it is provided that no person shall hold any two offices under the said State, excepting those of justice of the peace and notary public. Mr. Birch was a State Senator prior to the election, and continued so, as we will prove, up to this date. By holding that which he held before then, the disqualifications of the State Constitution render the vote of a citizen and the vote of Birch the same as if not cast. He was not elected even if he had a majority of votes.

Morris Marks, another of the electors, was prior to the election District-Attorney for the district in which the Parish of St. James is, and continues to hold down to this date. He is disqualified by the Constitution of the State.

We will also show that Oscar Jefferson was supervisor of registration from Point Coupee Parish. He is disqualified by the Constitution of the State, and also disqualified by this present enactment, because in the registration law, section 13, you will find that a supervisor of registration is expressly disqualified from being a candidate for any office voted for during the time of his officiating as supervisor of registration. The proviso is that no supervisor of registration appointed under this act; no clerk of such Supervisor of Registration shall be eligible to any office of election when such officer officiates. So there is an express statute disqualification with reference to him, and we will prove that he was acting or connected clear through as Supervisor of the Election of the Parish Point Coupee.

We are prepared to prove that prior to the election those who had the conduct of the campaign on the part of the Republican party alleged in advance that no matter how this election went by the people the Returning Board would make it all right. This was declared by Mr. Lewis and by Judge Dibble, the acting Attorney-General. Lewis is the one who was elected to the United States Senate by the late Legislature.

Let me add that this board, in addition to many other things that I shall not have time to recapitulate, offered by some of its members to sell the result of this State to two different men, one for a consideration of $200,000 and the other for $1,000,000, the prices charged being in conformity to the probability of the purchase. Truth ought to be permitted to shine upon this transaction, and if truth shine upon it only one single result can possibly be attained.

MR. HURLBUT REPLIES.

KELLOGG'S CERTIFICATE LEGAL.

Mr. Hurlbut began the argument for the Republicans in objection to the Democratic certificates from Louisiana. He said two courses were open to him—to attack the McEnery electors or uphold Kellogg's appointees. He chose the latter course, and argued as to the legality of Kellogg's official acts as compared with those of McEnery, which are illegal. He said:

Fortunately there is an abundance of proof upon that question. There is no Governor that has held office in these United States that is so abundantly bolstered up by proof of his existence as a Governor, by the fact of the election, by the fact of the declaration of that election by the only legal returning officers of the State, by the fact of the counting of the votes by the only legal Legislature of the State, by the fact of the entrance into office under that count, by the fact that when in pursuance of the system which prevailed in that most wretched State, the United States placed Kellogg back in the seat from which he had been thrown. The record does not end here. The Senate formally approved the action of the President. What is more, Senator Thurman offered an amendment to the resolution by which it was done, that nothing in that resolution should be considered as recognizing Kellogg as *de jure* Governor of Louisiana, and that amendment was rejected by a vote of the Senate. The House has also taken some action on this matter. The Louisiana committee which has been referred to by Mr. Jenks in his argument reported a resolution "that William Pitt Kellogg be recognized as the Governor of the State of Louisiana until the end of the term of office fixed by the Constitution of that State." That resolution was adopted by a vote of 165 to 89. Further, the award of the Wheeler committee was sanctioned by the Legislature of Louisiana, which passed a resolution by which they agreed that the tenure of office of William Pitt Kellogg, during the time for which he had been elected and until his successor should be appointed, should not in any way be interfered with by that Legislature of the State.

Now I will come back, first, to the question of his election, in 1872. The contest was between John McEnery and Wm. Pitt Kellogg for Governor. Gov. Warmoth, who undertook to manipulate more things than he could carry, endeavored to complicate the matter by breaking up the legal board of returning officers which existed under the act of 1870, and to create a board of creatures of his own, so that in fact at the election of 1872 there were two conflicting boards of returning officers of election—one of them known as the Lynch Board and the other as the former board. Now the court of the State of Louisiana has settled that question. The Supreme Court adjudged "that the Board of Returning Officers, composed, etc., etc., was the legal Returning Board of the officers of election in Louisiana." And that was the board by whose certificate of election Kellogg derived his title.

Now, if it be true that William Pitt Kellogg was Governor of the State of Louisiana on the 6th of December, 1876, it is manifestly true that John McEnery was not, and whatever virtue or value in the way of evidence this Commission may attach to the certificate of a Governor must be given to the Governor who, by election, recognition, and all other steps known to the law, was at the time actual Governor, and not to a mere pretender who retired from that contest by his own will in 1874, and has not in any way undertaken to assert or exercise any possible control over the office of Governor of that State from that day to this.

Again, I call the attention of the Commission to the peculiar wording of the certificate given by McEnery. He was careful as far as he could be not to commit himself to a statement of essential fact as appearing by evidence. This is a certificate that "the following is a true and correct list of the names of the electors of President and Vice-President of the United States for the next ensuing regular term of the regular offices thereof, being the electors duly and legally appointed by and for the State of Louisiana, having each received a majority of the votes cast for electors in the election of the State of Louisiana held in accordance with law, this certificate being furnished as directed by law by the executive authority of the State of Louisiana." There is no record there of any source known to the law from which he derives his recognition. There is no reference to any returns on file in his office, because he had no office. He had no returns. He had no Secretary of State. He had no man in all Louisiana who would come forward and verify the seal of the State and the signature of the Governor by signing "By the Governor, so and so, Secretary of State."

THE RETURNING BOARD FINAL.

Mr. Hurlbut stopped for a moment to consider the jurisdiction of the Commission. He denied its authority to review the election in Louisiana and go behind returns. On this point he used some of the arguments of Stanley Matthews in the Florida case with reference to *quo warranto* and to all processes in an election moving constantly forward. He said on this general subject:

All laws reflect the condition of society. Thus in Louisiana, the election process, instead of beginning from the bottom and coming up, begins from the top. There is not in that community diffused education. Above all things there is not that reverence for law which permits trusting local neighborhoods with this power, and so in recognition of that fact, in recognition of the fact that from the beginning in that most unfortunate State there has been armed, deliberate resistance to all law, there has been a deliberate, settled, persistent resolution to crush out by violence and force all those things, no matter what they were, which stood in the way of the party that sought to make itself dominant by force when it was not dominant by numbers; and thus the Legislature commenced in 1868 by first creating a sort of returning board, consisting of the Governor and certain officers, and using a judge for the purpose of determining these facts of intimidation. This Commission is acquainted with the history of that country. Now, then, having constituted them judges they make them the final judge and only tribunal which has the right to give a *prima facie* certificate of election for all elections held in the State, and the question gravely resolves itself back to this: Whether the Presidential election of 1876, in which certain persons were chosen as electors, was an election held within the State of Louisiana. If it was, then these men have jurisdiction.

Now the election of electors in Louisiana stands upon two statutes. Now I apprehend that in considering the effect of statutes that are claimed to repeal the one or the other the first question is as to what the probable intent and meaning of the Legislature was. No man pretends that it was the probable intent and meaning or purpose of the Legislature of Louisiana to repeal the right of the people to cast their votes for electors for President and Vice-President. Why? Because it is inconsistent with the actual state of things that has prevailed since that time; for there has been a Presidential election held since that in 1872, and held by this same process of voting by the people. There has been a Presidential election held in 1876, and that held in the same manner and by the same process of ascertaining the choice of the people in that matter of appointment of electors, so that the construction to be derived by the usage of the Government itself is against the theory of repeal. Besides, there comes in another great principle of interpretation, that laws repeal only so much of the preceding law as is inconsistent with the one to be enacted, and hence it has been held in practice in Louisiana, and undoubtedly is the clear law of the case, that the repealing act of 1870-72 creating this Returning Board only interfered with the act in regard to Presidential electors so far as to do away with the special tribunal provided under that prior act, and to submit that election and all other elections held in that State to the arbitrament and determination of this board of returning officers.

Now, I may perhaps be pardoned in saying that whatever may be the amplitude of the power committed by these statutes, under the will of the people of Louisiana, to this board of returning officers; whatever may be the peril—and I can see it—of giving so large a jurisdiction to any board, that the thing which was behind it and the cause of it, the cause of the enactment, is infinitely worse, and deserves the condemnation of every man who loves his country and believes in the rights of the down-trodden and the oppressed. For I say here, from some knowledge of the facts and close investigation, that the history of Louisiana since the reconstruction has been nothing more nor less than a series of desperate attempts to overthrow existing law by force; that the old Anglo-Saxon method, by which existing evils are corrected in the form of law, never seems to have entered into the imagination of that hot-headed, rash, and imperious people; they have adopted rather the Latin form that their neighborhood to Mexico would induce—sounding pronunciamentos, revolution, followed up by forced loans upon the commerce and industry of the country to support an illegal and irregular armed force in breaking down that which the Constitution and the laws give to the people of that State. This board, with all its powers, came into existence in view of all their circumstances.

Now the mode in which that board may have discharged its duties; the details, if you please, of the various steps which they took to acquaint themselves with the condition of this parish—all these things are evidence *aliunde* outside, and the simple and direct proposition that is made by the directors upon the other side is that this Commission shall resolve itself into a tribunal to try the question of who did vote and who did not vote yonder in every poll in Louisiana. You cannot do justice without. You cannot rest upon ex parte testimony taken by the Congressional Commission, for, although I have the honor to be a member of one branch of Congress, my experience is simply this, that of all tribunals, or pretended tribunals, that ever were gotten up by the perverse ingenuity of man for the purpose of inquiry into political matters, there is nothing so likely to be unfair and to do injustice as a Congressional committee.

You are asked to pass behind the returns. You have no right to. If you undertake to do that, you will do what the Supreme Court of the State of Louisiana has declined to do.

ARGUMENT OF SENATOR HOWE.

M'ENERY OBJECTED TO.

Senator Howe then addressed the Commission on behalf of the Republican objectors as follows:

I am somewhat mortified, having been assigned to speak in support of objection No. 4, to find how very small a thing it is. But we respectfully object that you shall not count the votes tendered by McEnery and his associates. First. Because you have no evidence that they were directed by the Legislature of Louisiana to vote for President, and you ought to have such evidence before you receive them. The statutes of the United States require you to have it. No man can have his vote as elector counted for President and Vice-President unless his right so to vote is certified by the Governor of the State. John McEnery was not in November last and never was Governor of Louisiana. How do we know that? Why, simply because we are rational beings, and as such we are now bound to know it. We may be ignorant of a great many things, but there is one thing of which we are not permitted to be ignorant. We are bound to know who is the Governor of a State of this Union; and being bound to know that the State can have but one Governor, when we come to know who that man is then we know that all the rest of God's beings are not. But I do not content myself merely with the propositions that we are bound to take judicial notice of who is Governor of the State; we are not bound to take this sort of notice, but every member of this Commission has helped to give notice and has served notice to the world that John McEnery was not Governor of Louisiana, and that Kellogg was. So many of you as occupy seats there who belong to the Senate have often seen the signature of McEnery attached to the credentials of somebody aspiring to recognition and knocking for admission to the Senate, but you have never opened your doors to any such demand. And so many of you as belong to the other house have seen that same name appended to the credentials of those who asked to be admitted to the deliberations of that body, but you have uniformly turned them away and said, "We do not know you, John McEnery; we do not know you in the character of Governor." I do not know that he has ever appeared before the Supreme Court; but another man has appeared before that court, has impleaded before it as the Governor of Louisiana, and judgment has been given in that court upon the issue there confirmed; so that you have, in all your several capacities, been called upon directly to pass judgment upon this pretense and have all given judgment against it.

A STAMPED COUNTERFEIT.

When a committee of one house of Congress went to Louisiana a few years ago and undertook to compose that State by compiling a government for it, no such calico as John McEnery got into that patchwork; another man was recognized as the Governor of Louisiana then and there, and yet this man comes here now, in these last few days, and undertakes to certify to the right of men to vote for President and Vice-President in the name of Louisiana. I have heard something said here this morning about fraud and corruption. Do you know or have you heard of any indication of fraud anywhere or in anybody so complete, so bold and palpable as this attempt of John McEnery, to pass himself, not only upon this high Commission, but upon the nation itself as Governor of Louisiana? There are cunning men I know who sometimes attempt to pass and do pass upon business men spurious notes as genuine, and you would take it as a trick of a knave to be sure, but a smart knave. What would you say of a man who should bring a note to a bank, pretending it was manufactured on its own plates, but which had actually been stamped as counterfeit before it was presented? You would not say that he was a very smart knave, would you? But here this man comes again, this man whose pretensions, as I say, had been rejected just as often as they had been put forward, and once more claims an authority which he never had. Kellogg, I think, will pass here as elsewhere as the Governor of Louisiana in November last, and he tells you who were the electors of that State as elected by the people in November.

COMPLIANCE WITH THE STATE LAW.

Do you want more evidence? Will you contradict that? It is the very evidence which our statute tells you to look for. I know that the Constitution says that each State shall appoint the prescribed number of electors in such way as the Legislature of the State shall direct, and perhaps you may feel authorized to go a little back of this certificate of the Governor of the State in order to see whether he has acted in accord with the direction of the Legislature, or has not—that, in other words, you are bound, if the statute of the United States does not have respect for the authority of the Legislature as clear as it ought, you are bound to keep your eye upon the Legislature of the State, and see what it has done, and see if it has told the Governor that he may say what he has said, or, if he has said something as Governor, which the Legislature did not permit him to say. If you feel called upon to go to that extent, you will find that the officers created by the laws of Louisiana to canvass the vote of the people of that State in November last have declared that a majority of them voted for the electoral ticket headed by Kellogg, and a minority of them voted for the ticket headed by McEnery. You will find that board by the laws of the State intrusted to canvass the votes given at all the elections and to declare the result. They are called the Returning Officers of the State, and the State tells you in the most unqualified terms that their determination, when made and promulgated, is *prima facie* evidence of the right of every man to hold office whose right is determined by their certificate; and if the State had not said so, you know such would be the effect of their certificate, and is in law the effect of such certificate given by every similar board in every State that I know of in the Union.

GOING BEHIND THE RETURNS.

Will you go further than this in that direction? I heard you just now invited to go further still, and it is intimated in that case some suggestive and impressive testimony would be laid before you. Under instructions of the Senate of the United States I have myself made some inquiries in that direction. The committee of the Senate which went to Louisiana represented both political parties, and they went there instructed to ascertain if they could whether the right of suffrage of that State had not been abridged in any way, either by fraud, force, excluding votes, or a refusal to count the votes after they had been deposited in the ballot-box. Senator Howe, who is chairman of that committee, then took up the different parishes, beginning with Ouachita, and related instances of intimidation and violence toward Republican voters, as proved by the testimony taken before the committee, and quoted from the testimony at great length.

Mr. Howe stated that he had among his papers eighty-odd different outrages committed in Louisiana during the last few months preceding the election. He gave this on his own personal responsibility, as the committee referred to had not yet made its report. He showed the great changes that had taken place in the Republican and Democratic registration lists between that in 1872 and that in 1876, and claimed that it was all the result of intimidation. "I am clear upon that point," said he, "that in these parishes where you hear so much complaint that votes were rejected from the count notwithstanding the reduction the Democratic ticket has a larger vote than it had in the same parishes two years ago. I ask this Commission to listen to the lawful voice of Louisiana as you would listen to the lawful voice of any other State, and give weight to it."

At the conclusion of Senator Howe's argument the Commission, on motion of Commissioner Edmunds, took a recess until 4½ o'clock. On reassembling, the Commission announced that four hours and a half would be allowed to each side for their arguments, and that the Commission would commence the hearing at 5 o'clock and sit until 9 o'clock this evening.

MR. CARPENTER'S SPEECH.

When the Commission again assembled at 5 o'clock, ex-Senator Carpenter said: I desire to say that I do not appear here for Samuel J. Tilden. He is a gentleman whose acquaintance I have not the honor of, with whom I have no sympathy, against whom I voted on the 7th of November last and, if this Tribunal could order a new trial, I should vote against him again, believing, as I do, that the accession of the Democratic party to power in this country to-day would be the greatest calamity which could befall the people except one, and that one great calamity would be to keep him out by fraud and falsehood. I appear here for 10,000 legal voters of the State of Louisiana, who, without accusation or proof, indictment or trial, notice or hearing, have been disfranchised by four villains incorporated in perpetual succession, whose official title is the Returning Board of Louisiana.

I beg your Honors to pause a moment and consider the lessons you are to teach to the future politicians of this country by this day's work. The honorable gentlemen from the House who have appeared here against us do not pretend that by the votes given on the 7th of November the Hayes electors were elected in Louisiana. No serious pretense of that kind is made. Since the last election the Democrats have got possession of Florida, saved to them by the decision that where clear proof is offered that a canvassing board has acted fraudulently in making up their certificates this high Tribunal will take no notice of it, and if this Tribunal will not, neither house of Congress can, for you have here the power of each house and of both houses, and if these Democratic canvassers of Florida do not send up another ticket here by 10,000 majority it will be because they have not improved upon the lesson given. If it be true that the Governor can certify a man as duly appointed an elector of the State who has not received a single vote at the poll, and that, too, upon the action of a canvassing board which has been bribed or coerced to throw away all the ballots cast, and certify a falsehood known to both Houses of Congress by the investigations they have made, who is so hopeful as to believe there will be another President elected by anything but fraud? Why go through with all the tremendous labor and expense of a political campaign when, with a third of the money, you can bribe a returning board and carry an election without a vote?

NATURE OF THE TRIBUNAL.

The first question which naturally suggests itself for argument is, what is the nature of this tribunal and the character of its powers? Upon the very basis of the bill creating this tribunal your decisions are to be reported to both houses of Congress, and the two houses of Congress may set them aside. There is an end, then, of saying that this tribunal is exercising judicial power, or that whether you decide that the vote shall be counted for Mr. Hayes or Mr. Tilden, that decision precludes the question between these two. What are the powers possessed by this Tribunal? I think I have shown that they are not judicial. The duty devolved by the Constitution upon the two houses of Congress is to count the votes given for President at the Electoral Colleges on the 6th of December last. Now I submit to your honors that whenever any question is pending before any legislative body—whether national or State Legislature—it is within the province and power of either house of the Legislature to investigate the subject to their heart's content. When it becomes the duty to count these votes it is to be done by the two houses. How are they to do it? Intelligently or blindly, so as to encourage justice and truth, or so as to enshrine injustice and fraud? May not the Senate raise a committee and take evidence tending to show what has been in these several States? May not the House do the same thing? May they not create a joint commission? Such a body as this is no novelty now. Whatever you decide the two houses may set aside, clearly declaring that the ultimate power of making this count is in the two houses. In no possible aspect of the case can it be maintained that this Tribunal is anything on earth but a legislative committee of investigation.

At this point Justice Bradley interrupted: "I don't think there is a difference of opinion on that point. It is the universal theory, so far as I am informed, that the powers of this Commission extend so far, and so far only, as the powers of the two houses of Congress."

Mr. Carpenter—In other words, then, it is agreed on all hands that the powers of this Commission are political powers, are legislative powers, delegated by the houses of Congress. Your Honors would have relieved yourselves from the infliction of the last 20 minutes if you had announced it earlier.

Commissioner Hoar—I did not understand that Judge Bradley announced the proposition that you have just stated.

Mr. Carpenter—The proposition is to my mind self-evident, and so fortified by the Constitution that I will stop [illegible]

[illegible]

A DECISION ON THE FACTS.

[illegible]

THE LAW OF LOUISIANA.

[illegible]

A PREMATURE ADJOURNMENT.

[illegible]

INVESTIGATIONS.

NOTES IN REGARD TO FLORIDA, LOUISIANA, MADDOX, AND CAPT. DITTY.

WASHINGTON, Feb. 13.—Proctor Knott's [illegible]

CONTINENTAL BOOKKEEPING.

INQUIRIES AFTER MISSING BONDS—HAMMOND'S PRACTICES.

The examination before William Allen Butler into the Continental Life Insurance Company's affairs was brief yesterday. [illegible]

XLIVth CONGRESS—SECOND SESSION.

REGULAR REPORT OF PROCEEDINGS.

THE CONTEMPT OF CONRAD M. JORDAN AND THE OREGON ELECTION—THE FLORIDA ELECTION CONSIDERED IN THE HOUSE—SPEECH OF MR. PURMAN.

SENATE....WASHINGTON, Feb. 13, 1877.

The Senate reassembled at 10 a. m., and without transacting any business took a recess until 12 o'clock. [illegible]

HOUSE OF REPRESENTATIVES.

The House met at 10 a. m., and from that time until 11:15 the clerk was engaged in reading the journal of the legislative day of the 1st of February, [illegible]

A five-year-old girl, convalescing from an [illegible]

THE COURTS.

EMMA MINE SUIT.

OPENING OF E. J. PHELPS FOR THE DEFENSE—CLAIMS THAT THE MINE IS NOT WORKED OUT.

Judge Wallace, at the opening of the Emma Mine case yesterday morning, [illegible]

A CONFUSED CASE WITH MANY LAWYERS.

[illegible]

CIVIL NOTES.

[illegible]

CRIMINAL NOTES.

[illegible]

DECISIONS—FEB. 13.

Supreme Court—Chambers—By Judge Barrett. [illegible]